

**IN THE UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF TENNESSEE AT GREENEVILLE**

**Lori K. Wilhoit,** )  
Plaintiff, )  
v. )  
**Time Insurance Company,** )  
Defendant. )  
Civil Action No. 2:08-cv-00304

**MOTION FOR LEAVE TO AMEND ANSWER TO ASSERT  
OMITTED COUNTERCLAIM**

Pursuant to Rule 13(f) of the Federal Rules of Civil Procedure, Defendant, Time Insurance Company (“Time”) hereby moves this Court for an Order granting it leave to amend its Answer previously filed in this civil action [Doc. 3]. Time seeks leave to amend to assert a counterclaim because, since the filing of its Answer, it has discovered additional benefits paid to Plaintiff for injuries arising from the same motor vehicle collision as the injuries described in Plaintiff’s Complaint, for which Defendant is entitled to reimbursement from Plaintiff according to the Medical Certificate under which Plaintiff makes claim in her Complaint. Time submits that said counterclaim was omitted through “oversight, inadvertence, or excusable neglect,” and that “justice requires” granting leave to Time to amend to assert the omitted counterclaim.

WHEREFORE, premises considered, Defendant respectfully requests that this Court grant it leave to amend its Answer to assert the omitted counterclaim reflected in Exhibit A.

Respectfully Submitted,

s/ S. Russell Headrick  
S. RUSSELL HEADRICK (TN5750)  
LESLIE L. BEALE (TN22015)  
BAKER, DONELSON, BEARMAN  
CALDWELL & BERKOWITZ, P.C.  
900 S. Gay Street, Suite 2200  
Knoxville, TN 37902  
(865) 549-7204 (direct phone)  
(865) 633-7204 (direct fax)  
[rheadrick@bakerdonelson.com](mailto:rheadrick@bakerdonelson.com)  
[lbeale@bakerdonelson.com](mailto:lbeale@bakerdonelson.com)

*Attorneys for Defendant*

**CERTIFICATE OF SERVICE**

The undersigned hereby certifies that a true and exact copy of the foregoing has been filed electronically on February 10, 2009. Notice of this filing will be sent by operation of the Court's electronic filing system to all parties indicated on the electronic filing receipt. All other parties will be served by regular U.S. mail. Parties may access this filing through the Court's electronic filing system.

s/ S. Russell Headrick  
S. Russell Headrick